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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,577	01/12/2000	Glenn R. Toothman, III		5806

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EXAMINER

LEE, DIANE I

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/481,577

Applicant(s)

TOOTHMAN, LLL ET AL.

Examiner

D. I. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16,24,28-33 and 55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16,24,28-33 and 55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 25 October 2002. Claims 1, 9, 24, 28, and 55 have been amended; Claims 17-23, 25-27, and 34-40 have been canceled; and no claims have been newly added. Currently, claims 1-16, 24, 28-33, and 41-55 are pending in the application, and wherein claims 41-54 are withdrawn from the consideration as being drawn to a non-elected invention.
2. The request filed on 27 January 2003 for a Request for continued Examination (RCE) under 37 CFR 1.114 based on the Application No. 09/481,577 is acceptable and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-16, 24, 28-33, and 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1: the phrase "the memory device is externally connectionless for at least one of data and power" is unclear to the examiner. First, is applicant referring the data as memorial information stored in the memory device? Second, how data can be externally connectionless to the device?

Re claim 9: See the same discussion in claim 1 above.

Re claim 24: See the same discussion in claim 1 above.

Re claim 28: See the same discussion in claim 1 above.

Re claim 55: See the same discussion in claim 1 above.

Therefore, claims 1, 9, 24, 28, 55 and claims depend therefrom, i.e., claims 2-8, 10-16, 29-33 are vague and indefinite. Please clarify in next communication.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-6, 17-18, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Assisi [US 5,696,488, previously cited by the examiner] in view of Lake [US 6,471,129, newly cited by the examiner].

Re claims 1, 4-6 : Assisi discloses a system having a device for storing retrieval information relating a deceased person, the system comprising:

a computer 5 having a memory device 6 permanently affixed to a stationary physical object/location positioned at the cemetery location (i.e., the computer and the memory is directly located in the cemetery 1). The memory device is weather resistant memory device and memorial information stored in the memory device (see col. 1, lines 4+; col. 2, lines 7+; and the figure);

a portable memory reading device 3, 11 holdable by one of the visitor or public users, separate from the memory device of the cemetery location 1, that retrieves the memorial information directly from the memory device of the cemetery location when it is positioned at the cemetery location (i.e., wireless communication carried out when the portable memory reading device is brought into the vicinity of the memory device 2, which is a non-permanent proximity link). The memorial information in the memory device of the cemetery location is in form of text, image or audio data of the deceased person in the cemetery and may be call up by any visitor or public user with the portable memory reading device 3, 11 (see col. 1, lines 35+ and col. 2, lines 23+).

Assisi fails to teach the memory device is externally connectionless for power.

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Lake discloses a communication system 12 having an electronically self-contained device 10 for storing retrieval information in communication with a reader (i.e., interrogator unit 14). The device includes a memory 62 for storing retrieval information and a power source 52 for providing wireless communication. Therefore, the memory device is externally connectionless for data communication and power.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teaching of Lake in the system of Assisi. Doing so would have provided Assisi a stand along system that providing memorial information to the public without the connection to the control storage chamber when a connection failure occurs in the cable there between. Such modification would have provided effective and reliable communication device.

Re claim 3: wherein the memory device contains personal information on the deceased person the device is connected to the transmitter/receiver device 2 so that the portable memory device can retrieve the information via wireless communication. Since the contents of the information stored in the memory device is determined by a person during his or her lifetime and that information is accessible via the reading device which clearly teaches that the memory device is a programmable read only memory device;

Re claims 2, 7-16, 24, and 28-33: Due to the fact that Assisi discloses a system having an electronic storage in communication with a reading device (i.e., the reading device retrieving data in the storage) and Assisi further states that utilizing such system would provide unobtrusive communication between the visitor(s) and the site having a memory device, and the dignity of the location is not disturbed (see col. 2, lines 23+), it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to apply the Assisi's teaching in museum or historical site in order to further extend the utilization of the electronic storage in communication with a reading device (i.e., museum or historical site having an electronic storage storing historical/geographical information in communication with a

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reading device and the reading device retrieving the stored historical data in the storage). Furthermore, it would have been an obvious intended use of the system since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2USPQ2d 1647 (1978).

Re claims 2, 10, and 29: Assisi is silent with respect the memory device comprising a contact memory device.

Assisi teaches a system utilizing a wireless communication, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to substitute the contactless memory device to a contact memory due to the fact that contact reading device would not requires a transceiver thereby it is cost effective and more reliable. Accordingly, it would have been an obvious substitution of equivalent therefore, it would have been an obvious expedient.

Re claims 7-8, 15-16, and 32-33: Assisi is silent with respect to the specific language format of the information resides on the memory device such as extensible markup language or hypertext markup language formats.

Assisi teaches that the information resides on the memory device may be in the form of text, image or audio data in any combination (see col. 1, lines 45-46).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to utilize any suitable language format appropriate to the system. Furthermore, since applicant has not discloses that utilizing extensible markup language or hypertext markup language formats in the memory device would solve any stated problems or is for any particular purpose and it appears that the invention would perform equally well with any other applicable language/text format that is available. Therefore, it would have been an obvious design variation to a person skilled in the art. One

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might choose the specific text format in order to meet specific communication standards/requirements.

Accordingly, it would have been an obvious expedient.

7. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Assisi as modified by Lake as applied to claim 1 above, and further in view of Downing [US 4,689,757-referred as Downing]. The teachings of Assisi as modified by Lake have been discussed above.

The system of Assisi includes a wireless data connectivity between the memory device affixed a the cemetery to the portable memory reader which obviously includes a data interfacing or connecting port and the information directly passing from the memory device to the portable reader via wireless connection.

Assisi as modified by Lake does not disclose the data connector and the information directly passing from the memory device to the portable reader upon the wire connection between the portable reader and the data connector, and upon contact with the memory device to the data connector.

Downing discloses the data connector 12 and the information directly passing from the memory device (counting machine 10) to the portable reader (transfer unit 16) upon the wire connection 18 between the portable reader and the data connector, and upon contact with the memory device to the data connector via the wire connection 14 (see col. 3, lines 5+ and figure 1).

In view of Downing's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to provide the direct wire connection for retrieving the information in the system of Assisi as modified by Lake in order to provide a wire connection between the memory device and the reader to accommodate the reader without the wireless communication feature, thereby increasing the capability of the data connection.

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Response to Arguments

8. Applicant's arguments with respect to claims 1, 9, 24, 28 have been considered but are moot in view of the new ground(s) of rejection (see the discussion above).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



D. I. Lee
Primary Examiner
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March 26, 2003